



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

MARCUS MANNING,

X  
INDEX NO. 2007 7412  
DATE PURCHASED: 10-26-07

Plaintiff,

SUMMONS

- against -

HEATHER M. CHARTER and  
PRESTIGE OF RAMSEY, INC.,

Plaintiff designates  
Dutchess County as the  
place of trial.

The basis of the venue  
is plaintiff's residence.

Plaintiff resides in  
Poughkeepsie, New York

Defendants.

X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Poughkeepsie, New York  
October 25, 2007

DUTCHES COUNTY  
CLERK'S OFFICE  
RECEIVED  
2007 OCT 26 PM 2:15

p.2  
p.3

8454713003

Keith S. Rinaldi

08 09 07 01:31P

Dec 03 07 03:37P



KEITH S. RINALDI, P.C.  
BY: KEITH S. RINALDI  
Attorneys for Plaintiff  
The Rinaldi Building  
10 Arlington Avenue  
Poughkeepsie, NY 12603-1604  
(845) 471-3000

TO:

HEATHER M. CHARTER  
7924B Cottage Street  
Philadelphia, PA 19136

PRESTIGE OF RAMSEY, INC.  
1000 Route 17 North  
Ramsey, NJ 07446

p.3  
p.4

8454713003

Keith S. Rinaldi

Dec 03 07 03:37p  
100-000-000-0000  
DCC 03 07 03:37p

Nov 09 07 01:33p Keith S. Rinaldi

8454713003

p.2

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

MARCUS MANNING, X

INDEX NO. 2007 7412  
DATE PURCHASED: 10-26-2007

Plaintiff,

**SUMMONS**

- against -

HEATHER M. CHARTER and  
PRESTIGE OF RAMSEY, INC.,

Plaintiff designates  
Dutchess County as the  
place of trial.

The basis of the venue  
is plaintiff's residence.

Plaintiff resides in  
Poughkeepsie, New York

Defendants. X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Poughkeepsie, New York  
October 25, 2007

DUTCHESS COUNTY  
CLERK'S OFFICE  
RECEIVED  
2007 OCT 26 PM 2:15

Nov 09 07 01:33p Keith S. Rinaldi

8454713003

p.3

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

MARCUS MANNING,

X

Plaintiff,

- against -

VERIFIED COMPLAINT

INDEX NO: 2007-7412

HEATHER M. CHARTER and  
PRESTIGE OF RAMSEY, INC.,

Defendants.

X

Plaintiff, complaining of the defendants, by his attorneys, KEITH S. RINALDI, P.C., respectfully alleges:

1. At all times hereinafter mentioned, the plaintiff, MARCUS MANNING, was and is a resident of the County of Dutchess, State of New York.
2. Upon information and belief, at all times hereinafter mentioned, the defendant, HEATHER M. CHARTER, was and is a resident of the State of Pennsylvania.
3. Upon information and belief, at all times hereinafter mentioned, the defendant PRESTIGE OF RAMSEY, INC., was and is a domestic corporation existing in the State of New Jersey.
4. At all times hereinafter mentioned, the plaintiff, MARCUS MANNING, was a pedestrian crossing the street, on Main Street, in the City of Poughkeepsie, County of Dutchess, State of New York.
5. Upon information and belief, at all times hereinafter mentioned, the defendant, HEATHER M. CHARTER, was the operator of a certain 2007 Lexus vehicle bearing New Jersey State license plate number LDRC89 and operated said vehicle with the knowledge, consent and permission of the defendant, PRESTIGE OF RAMSEY, INC.
6. Upon information and belief, at all times hereinafter mentioned, the defendant, PRESTIGE OF RAMSEY, INC. was the owner of the 2007 Lexus vehicle bearing New Jersey State license plate number LDRC89.

DUTCHESSE COUNTY  
CLERK'S OFFICE  
RECEIVED

2007 OCT 26 PM 2:15

Nov 09 07 01:33p

Keith S. Rinaldi

8454713003

p. 4

7. Upon information and belief, at all times hereinafter mentioned, Main Street, in the City of Poughkeepsie, County of Dutchess, State of New York was and is a public highway.

8. That at all times hereinafter mentioned, Main Street, in the City of Poughkeepsie, County of Dutchess, State of New York was and is the site of the accident referred to herein.

9. That on the 26<sup>th</sup> day of February, 2007, the defendants were negligent, reckless and careless in the ownership, operation and control of the aforesaid 2007 Lexus vehicle causing same to hit the plaintiff, MARCUS MANNING, a pedestrian, thereby damaging the plaintiff as hereinafter alleged.

10. That the aforesaid accident was caused solely by the negligence of the defendants without any negligence on the part of the plaintiff contributing thereto.

11. That the limited liability provisions of CPLR 1602 do not apply pursuant to one or more of the exceptions of CPLR 1602, including but not limited to: relative to any liability arising by reason of a non-delegable duty or by reason of the doctrine of respondeat superior; and/or relative to actions requiring proof of intent; and/or relative to any person held liable for his use, operation, or ownership of a motor vehicle or motorcycle; and/or relative to any person held liable for causing plaintiff's injury by having acted with reckless disregard for the safety of others; and/or relative to any person held liable by reason of the applicability of article ten of the labor law.

12. That as a result of the aforesaid accident and the negligence of the defendants, the plaintiff, MARCUS MANNING, sustained a "serious injury" as defined in Section 5102(d) of the Insurance Law of the State of New York.

13. That as a result of the aforesaid accident and the negligence of the defendants, the plaintiff, MARCUS MANNING, was rendered sick, sore, lame and disabled, and, upon information and belief, permanently so, all to his damage in an amount of excess of the jurisdictional limits of all other courts having jurisdiction of this matter.

WHEREFORE, the plaintiff, MARCUS MANNING, demands judgment against the defendants, in an amount in excess of the jurisdictional limits of all other courts having jurisdiction in this matter together with the costs and disbursements of this action, and for such other relief as the Honorable Court may deem just and proper.

Dated: Poughkeepsie, New York  
October 25, 2007

Nov 09 07 01:33p

Keith S. Rinaldi

8454713003

p.5



---

KEITH S. RINALDI, P.C.  
BY: KEITH S. RINALDI  
Office and P.O. Address  
The Rinaldi Building  
10 Arlington Avenue  
Poughkeepsie, NY 12603-1604  
(845) 471-3000

TO:

Heather M. Charter  
7924B Cottage Street  
Philadelphia, PA 19136

Prestige of Ramsey, Inc.  
1000 Route 17 North  
Ramsey, NJ 07446

g.d

Dec 03 07 03:38p

Nov 09 07 01:34p

Keith S. Rinaldi

8454713003

p.6

## STATE OF NEW YORK COUNTY OF

I, the undersigned, an attorney admitted to practice in the courts of New York State,  
 certify that the within affidavit was composed by me, in the original and, found to be true and complete, copy. I am the attorney of record for

action; I have read, or had read

the same to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters

I believe it to be true. The reason in the affidavit is made by me and not by

in the witness

and know the contents thereof,

The grounds of my belief of the matters stated in the affidavit are as follows:

I believe the foregoing statements are true under the penalties of perjury.

## STATE OF NEW YORK COUNTY OF JURISDICTION

I, the undersigned, being duly sworn, do solemnly affirm and declare as follows:

 I am the attorney of record for the purpose of this affidavit, I have read the following affidavit of a witness, a sworn statement, or a deposition, and as to the contents thereof, to the same extent as if I had read the original affidavit, deposition, or statement, and as to those matters I believe it to be true. The affidavit, deposition, or statement, or the like, is attached hereto and is incorporated herein by reference.

Sworn to before me on

## STATE OF NEW YORK COUNTY OF

I, the undersigned, an attorney admitted to practice in the courts of New York State, do solemnly affirm and declare as follows:

 I am the attorney of record for the purpose of this affidavit, I have read the following affidavit of a witness, a sworn statement, or a deposition, and as to the contents thereof, to the same extent as if I had read the original affidavit, deposition, or statement, and as to those matters I believe it to be true. The affidavit, deposition, or statement, or the like, is attached hereto and is incorporated herein by reference.

Sworn to before me on





SUPERIOR COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X  
MARCUS MANNING,

Index No.: 7412/07

Plaintiff,  
-against-

VERIFIED ANSWER  
TO VERIFIED  
COMPLAINT

HEATHER M. CHARTER and  
PRESTIGE OF RAMSEY, INC.,

Defendants.

-----X

Defendant, PRESTIGE OF RAMSEY, INC., by its attorneys, LONDON FISCHER LLP, as and for its Verified Answer to the Verified Complaint, allege, upon information and belief, as follows:

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs "1", "4" and "7" of the Verified Complaint.
2. Admits each and every allegation contained in paragraphs "2", "3", "5", "6" and "8" of the Verified Complaint.
3. Denies each and every allegation contained in paragraphs "9", "10" and "13" of the Verified Complaint.
4. Denies each and every allegation contained in paragraphs "11" and "12" of the Verified Complaint, and respectfully refers all questions of law to the Court.

AS AND FOR A FIRST, SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE, PURSUANT TO ARTICLE 14-A  
OF THE NEW YORK CIVIL PRACTICE LAW AND RULES

5. The accident complained of was caused in whole or in part by the culpable conduct attributable to the Plaintiff, including comparative fault and/or assumption of risk.

6. Plaintiff should be barred from recovery by reason of the fact that the subject accident was entirely the result of the culpable conduct and/or assumption of risk on the part of the Plaintiff, or, in the event that Plaintiff is entitled to recover, the amount of damages otherwise should be diminished in the proportion to which the culpable conduct and/or assumption of risk attributable to the Plaintiff bears to the culpable conduct which caused the damages.

**AS AND FOR A SECOND, SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE**

7. Upon information and belief, any damages sustained by Plaintiff as alleged in the Verified Complaint, were caused by parties other than this defendant.

**AS AND FOR A THIRD, SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE**

8. Any amount that may be awarded to plaintiff as against PRESTIGE OF RAMSEY, INC., must be reduced by the amount received from or indemnified by any collateral source pursuant to CPLR §4545(c).

**AS AND FOR A FOURTH, SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE**

9. In the event that any person or entity liable or claimed to be liable for the injury alleged in this action has been given or may hereafter be given a release or covenant not to sue, PRESTIGE OF RAMSEY, INC., will be entitled to protection under General Obligation Law §15-108 and the corresponding reductions of any damages which may be determined to be due against PRESTIGE OF RAMSEY, INC.

**AS AND FOR A FIFTH SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE**

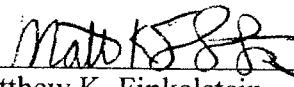
10. This action is barred on the grounds that Plaintiff did not sustain a "serious injury," as defined in §5102 of the Insurance Law of the State of New York.

WHEREFORE, defendant, PRESTIGE OF RAMSEY, INC., pray that the Verified Complaint be dismissed as against it, together with the costs, expenses and disbursements incurred in the defense of this action.

Dated: New York, New York  
December 10, 2007

LONDON FISCHER LLP

By:

  
Matthew K. Finkelstein  
Attorneys for Defendant  
PRESTIGE OF RAMSEY, INC.,  
59 Maiden Lane  
New York, NY 10038  
(212) 972-1000

TO: KEITH S. RINALDI, P.C.  
Attorney for Plaintiff  
MARCUS MANNING  
The Rinaldi Building  
10 Arlington Avenue  
Poughkeepsie, New York 12603-1604  
(845) 471-3000

K:\113\476\Pleadings\Amended Verified Answer.doc

ATTORNEY'S VERIFICATION

MATTHEW K. FINKELSTEIN, being an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. Affirmant is a member of the law firm LONDON FISCHER LLP, attorneys for defendant, PRESTIGE OF RAMSEY, INC., in the within action, and is fully familiar with the facts and circumstances set forth herein.

2. Affirmant has read the foregoing Verified Answer to Verified Complaint, knows the contents thereof, and the same is true to Affirmant's own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters Affirmant believes them to be true.

3. Affirmant further states that the reason this Verified Answer is made by the undersigned and not by the defendant is because defendant neither maintains their place of business nor is present in New York County where the Affirmant maintains his office.

4. The grounds of Affirmant's belief as to all matters not stated to be upon Affirmant's knowledge are investigative and other information contained in the file of said law firm and learned in conversation with the clients.

Dated: New York, New York  
December 10, 2007



MATTHEW K. FINKELSTEIN

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X  
MARCUS MANNING,

Index No.: 7412/07

Plaintiff,  
-against-

DEMAND PURSUANT  
TO CPLR § 3017(c)

HEATHER M. CHARTER and  
PRESTIGE OF RAMSEY, INC.,

Defendants.

-----X

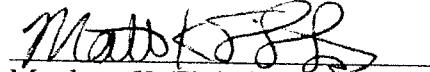
C O U N S E L :

Defendant, PRESTIGE OF RAMSEY, INC., through its undersigned counsel, hereby demands that within fifteen (15) days of this request, plaintiff provide a supplemental demand setting forth the total damages to which the plaintiff deems himself entitled to recover for personal injuries.

Dated: New York, New York  
December 10, 2007

LONDON FISCHER LLP

By:

  
Matthew K. Finkelstein  
Attorneys for Defendant  
PRESTIGE OF RAMSEY, INC.  
59 Maiden Lane  
New York, NY 10038  
(212) 972-1000

TO: KEITH S. RINALDI, P.C.  
Attorney for Plaintiff  
MARCUS MANNING  
The Rinaldi Building  
10 Arlington Avenue  
Poughkeepsie, New York 12603-1604  
(845) 471-3000



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

MARCUS MANNING,

Plaintiff,

- Against -

RESPONSE TO DEMAND PURSUANT TO  
CPLR Section 3017(c)

HEATHER M. CHARTER AND  
PRESTIGE OF RAMSEY, INC.,

Defendants.

Plaintiff, responding to the Demand Pursuant to CPLR Section 3017 (c) of defendant, PRESTIGE OF RAMSEY, INC., states as follows:

The total damages to which the plaintiff deems himself entitled to recover for personal injuries is ONE MILLION DOLLARS.

Dated: Poughkeepsie, New York  
January 14, 2008

Yours, etc.

KEITH S. RINALDI, P.C.  
BY: KEITH S. RINALDI, ESQ.  
Attorneys for Plaintiff  
Office & P.O. Address  
10 Arlington Avenue  
Poughkeepsie, NY 12603  
(845) 471-3000

TO:  
MATTHEW K. FINKELSTEIN, ESQ.  
LONDON FISCHER, LLP  
Attorneys for Defendant,  
PRESTIGE OF RAMSEY, INC.  
59 Maiden Lane  
New York, NY 10038

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF DUTCHES )

I, the undersigned, being sworn, say: I am not a party to the action, am over 18 years of age and reside in Newburgh, New York

On January 15, 2008, I served the within DEMAND PURSUANT TO CPLR SECTION 1017(c)

by mailing a copy to each of the following persons at the last known address set forth below:

Matthew K. Finkelstein, Esq.  
London Fischer, LLP  
Attorneys At Law  
59 Maiden Lane  
New York, NY 10038

Ann Marie Coffey  
ANN-MARIE COFFEY

Sworn to before me this  
15<sup>th</sup> day of January, 2008.

## Notary Public

1. **NAME & ADDRESS**  
Mr. & Mrs. J. VALENTE  
100-12th Street  
New York  
Kings County  
Expiration: 1/31/2010



## AFFIDAVIT F SERVICE THROUGH THE SECRETARY OF STATE

Index # 2007/7412

Purchased/Filed: October 26, 2007

STATE OF NEW YORK

SUPREME COURT

DUTCHES COUNTY

*Marcus Manning*

against

*Heather M. Charter and Prestige of Ramsey, Inc.*

STATE OF NEW YORK  
COUNTY OF ALBANY

SS.:

*Jessica Miller*, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; that on January 14, 2008, at 2:00 pm, at the office of the Secretary of State of the State of New York in the City of Albany, New York deponent served the annexed

Summons and Verified Complaint

on

*Heather M. Charter*, the

Defendant in this action, by delivering to and leaving with Carol Vogt, AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, 1 true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of 10 dollars, That said service was made pursuant to Section 253 Vehicle and Traffic Law.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Description of the person served: Approx. Age: 43 Approx. Wt: 118 Approx. Ht: 5'

Color of skin: White Hair color: Brown Sex: F Other: \_\_\_\_\_

Sworn to before me on this

18th day of January, 2008

*DONNA M. TIDINGS*  
NOTARY PUBLIC, State of New York  
No. 01T14898570, Qualified in Albany County  
Commission Expires June 15, 2011

*Jessica Miller*

Invoice•Work Order # SP0800242

**SERVICO, INC. - PO Box 871 - ALBANY, NEW YORK 12201 - PH 518-463-4179**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

MARCUS MANNING,  
Plaintiff,

-against-

HEATHER M. CHARTER and PRESTIGE OF RAMSEY, INC.,

Defendant.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
                          )SS.:  
COUNTY OF DUTCHESS )

I, the undersigned, being duly sworn, say:

I am not a party to the action, am over the age of 18 and reside in Newburgh, New York.

In accordance with NYS Vehicle and Traffic Law Section 253:

On January 30, 2008, I served the Summons and Complaint in this action, via ordinary mail and on January 31, 2008, I served the Summons and Complaint in this action via Certified Mail Return Receipt Requested (a copy of the Mailing Receipt is annexed hereto) to the defendant, HEATHER M. CHARTER, at her last known address at :

7924B Cottage Street, Philadelphia, PA, 19136.

  
ANN-MARIE COFFEY

Sworn to before me this 31<sup>st</sup> day of  
January, 2008.

  
Notary Public  
JOSEPHINE C. VALENTE  
Notary Public - State of New York  
County of Dutchess County  
Commission Expires: 1-31-2010

U.S. Postal Service™  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

F E D E R A L U P S	
Postage	\$ 58
Certified Fee	265
Return Receipt Fee (Endorsement Required)	215
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$5 38

70002 0710 0000 9647 1502

70002 Sent To: Heather Charter  
Street, Apt. No.: 7924B Cottage St  
or PO Box No.: PA  
City, State, ZIP+4: Philadelphia 19136

PS Form 3800, August 2006  
See Reverse for Instructions

30003 31 2008 JAN 31 2008 PONY MAIL